IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 5573 of 1999

Between:

TV. Rameshan Nair, S/O. P. Vasudevan Nair,

R/o. Parli Baijnath Stationed at Hyderabad (AP),

..... PETITIONER

AND

1 The Union of India The Secretary, Ministry of Railways,

Government of India, New Delhi.
2 The Director General Railway Protection Force,

Ministry of Railways, Government of India,
New Delhi.
3 The Chief Security Commissioner,

RPF South Central Railway, Rall Nilayam,
Secunderabad (AP)
4 The Deputy Chief Security Commissioner RPF,

Rail Nilayam, Secunderabad (AP)
5 The Divisional Security Commissioner/

Railway Protection Force Sanchalan Bhavan,

Secunderabad (AP).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, order or writ more appropriately one in the nature of a writ mandamus directing the respondent herein to; "Declare the Impugned Order No. X/P.227/Appeal/99-03 dt. 05-03-1999 upholding the Divisional Order No. X/SC.227 /153/3/96 dt.30.11.1998 imposing the punishment of 'Reduction to the rank of Head Constable for a period of two years as unjust, unreasonable, unlawful and therefore ultra vires',

Counsel for the Petitioner: MR.CAPT.K.M.SAXENA

Counsel for the Respondent No.1: MR A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent Nos.2 to 5: MR.G.S.SANGHI

The Court made the following:

ORDER:

This writ petition is filed, seeking a Certiorari or any other appropriate writ or order, to quash the impugned order No.X/P.227/Appeal/99-03, dated 05.03.1999, upholding the Divisional Order No.87/98 issued vide proceedings No.X/SC.227/153/3/96, dated 30.11.1998, imposing the punishment of reduction to the rank of Head Constable for a period of two years.

It is the case of the petitioner that he is working as an Assistant Sub-Inspector of Railway Protection Force, which has been reconstituted as an Armed Force of the Union by an Act of the Parliament (Act LX of 1985). Initially he was appointed as a Constable, subsequently he was promoted as a Head Constable and further promoted as an Assistant Sub-Inspector. While so, in view of some charges levelled against him, after conducting a detailed enquiry into the matter, the petitioner was reverted from the post of Assistant Sub-Inspector to that of Head Constable for a period of two years. The same is under challenge.

The learned counsel for the petitioner strenuously contended that the petitioner once promoted to the post of Assistant Sub-Inspector, question of his reverting to the post of Head Constable, in view of the orders passed by the Divisional Authority, as confirmed by the Appellate Authority, does not arise, for the reason that the cadre of Assistant Sub-Inspector comes in the Officers' cadre, therefore, a person who was enrolled into the Officers' cadre, cannot be reverted to a lower cadre post than the

Officers' cadre. In this case, since the petitioner was reverted to the post of Head Constable, it must be deemed that he has been reduced to a rank lower than Officers' cadre post. The cadre of Head Constable and Naik are one group, whereas the cadre of Assistant Sub-Inspector, Sub-Inspector and Inspector are in another group i.e. officers' cadre. Therefore, there are different cadres. So the question of reverting the petitioner, having enrolled in one cadre of officers, to the post of Head Constable, does not arise and the same is illegal and arbitrary.

A detailed counter affidavit has been filed by the respondents, denying the allegations made by the petitioner. Further the learned counsel for the respondents strenuously contended that the petitioner having promoted from the post of Constable to Head Constable and further promoted to the post of Assistant Sub-Inspector, he would not claim that he was directly appointed against the post of Assistant Sub-Inspector. Therefore, he could not have been reverted to the post of Head Constable which is not in the cadre of officers, is without any substance.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material made available on record.

At the outset, I am of the opinion that this writ petition is speculative and imaginary in its nature. It is the imagination of the petitioner that he, having been enrolled to the post of Assistant Sub-Inspector which forms the cadre of an officer, as per Rule 158 of the Railway Protection Force Rules, 1954, he could not have been reverted to the post, lower than that of an officer cadre. This argument is without any substance. The Rule 157 of the Railway Protection Force Rules, 1954 categorically indicates that no enrolled member of the Force shall be reduced to a rank lower than that to which he was first appointed to the service nor shall he be reduced permanently in the sense that he shall never be eligible for repromotion, however meritorious his subsequent service may be. This all would show that a person should not be reduced to a rank lower than to, which he was first appointed. In this case, admittedly the petitioner was appointed initially as a Constable in the Force and thereafter he was promoted as Head Constable and Assistant Sub-Inspector. This itself does not mean that merely because the petitioner was promoted to that of an Officers' cadre, he cannot be reverted to that of non-officers' cadre, and as soon as he was promoted as Assistant Sub-Inspector, he loses of his enrollment as a member of the Force as a Constable and as a Head Constable. Substantively the petitioner was appointed to the post Constable, and therefore, there was nothing

wrong in reverting the petitioner from the post of Assistant Sub-Inspector to the post of Head Constable. Under those circumstances, I am of the opinion that the writ petition is imaginary and speculative in its nature, devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

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C.V.RAMULU,J

Dated: 11.07.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Secretary,

The Union of India,

Ministry of Railways,

Government of India, New Delhi

2. The Director General, Railway Protection Force,

Ministry of Railways, Government of India, New Delhi

3. The Chief Security Commissioner,

RPF South Central Railway,

Rail Nilayam, Secunderabad (AP)

4. The Deputy Chief Security Commissioner,

RPF Rail Nilayam, Secunderabad (AP)

5. The Divisional Security Commissioner,

Railway Protection Force, Sanchalan Bhavan,

Secunderabad (AP)

6. Two CD copies

7. 1 CC to MR.SRINIVASA SARMA

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